



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,832	07/21/2000	ANDREAS GIEFER	67526	2069

23872 7590 03/22/2005

MCGLEW & TUTTLE, PC
1 SCARBOROUGH STATION PLAZA
SCARBOROUGH, NY 10510-0827

EXAMINER

LUONG, VINH

ART UNIT	PAPER NUMBER
----------	--------------

3682

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/600,832

Applicant(s)

GIEFER, ANDREAS

Examiner

Vinh T Luong

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-30,32,33,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-30,32,33,35 and 36 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


Vinh T. Luong
Primary Examiner

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Applicant's Amendment after the Board's decision filed on February 3, 2005 has been entered.
2. The Amendment filed on February 3, 2005 is objected to under 37 CFR 1.121 because Applicant failed to list all claims ever presented in the case in ascending numerical order. Cancel claim 34 is missing.
3. The proposed drawing correction filed on December 26, 2001 has been partially approved. The proposed drawing correction in Fig. 5 has been approved. However, the proposed drawing correction in Figs. 3, 4, and 7 has been disapproved because:

(A) the showing of the elastic portion 12 as now shown in Fig. 3 introduces new matter. See 35 USC 113 and 37 CFR 1.81(d). The original disclosure does not describe, e.g., the size, shape and location of the elastic portion. The elastic portion may be, e.g., square instead of rectangular as now shown. The showing of a specific size, shape, and location of the elastic portion within a full spectrum of possible sizes, shapes and locations is considered under the present disclosure to be new matter. *Cf., In re Smith*, 173 U.S.P.Q. 679 (CCPA 1972) and *Ex parte George*, 230 U.S.P.Q. 575, 578 (Bd. Pat. App. & Inter. 1986);

(B) the proposed correction in Fig. 3 is inconsistent with the specification. For example, the amended paragraph starting on page 9, line 17, and ending on page 10 at line 5 describes the bracket 15, nevertheless, Fig. 3 shows that the element 15 is an axis of the roller 4.1 - 4.4;

(C) the proposed correction in Fig. 4 is inconsistent with the other figures. For example, Fig. 4 shows the selector lever 8 in the form of a straight line, meanwhile, Fig. 6 shows the selector lever 8 in the form of a cylinder;

Art Unit: 3682

(D) the showing of the signal receiver 14 (Hall sensors) and/or permanent magnets 13 in Fig. 4 introduces new matter. The original disclosure does not specifically describe, e.g., the size, shape and location of the signal receiver and/or permanent magnets. The magnets may be located, e.g., at the center 3.1 instead at the periphery of the deflecting element 3.5 as now shown. The showing of a specific size, shape, and location of the receiver and/or magnets within a full spectrum of possible sizes, shapes and locations is considered under the present disclosure to be new matter. *Cf., In re Smith and Ex parte George, supra;*

(E) the proposed correction in Fig. 4 is inconsistent with the claims, e.g., claims 32 and 33 call for "signal receivers" (plural, emphasis), but, Fig. 4 shows only one receiver 14;

(F) the original claim 15 and the new paragraph between lines 12 and 13 on page 10 of the specification describe that the receivers are arranged at spaced locations from the signal transmitter, however, corrected Fig. 4 shows that the receiver 14 is in direct contact or engaged with the transmitters 13. The concept that the receiver 14 is in direct contact or engaged with the transmitters 13 is not conveyed in the original disclosure, i.e., new matter. *In re Anderson*, 176 U.S.P.Q. 331 (CCPA 1973); and

(G) the showing of the new element 16 in Fig. 7 introduces new matter. The original and/or amended specification do(es) not describe, e.g., the size, shape and location of the element 16. It is unclear what element 16 is since it is not described in the specification.

4. The drawings are objected to under 37 CFR 1.84 because:

(A) the drawings should show the plane upon which a sectional view such as Fig. 4 is taken; and

(B) each part of the invention, such as, (1) the kinematics in claim 18; (2) the elastic louver portion in claim 27; (3) the signal transmitters and receivers in claims 32 and 35; (4) the permanent magnets and Hall sensors in claim 33; (5) the two deflecting axes in the amended paragraph starting on page 6 at line 18 and ending on page 7 at line 15 of the specification; (6) the fitting hole in line 7 on page 9 of the substitute specification; and (7) the first and second directions in claims 36-38 should be designated by a referential numeral or character.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed features such as: (1) the

Art Unit: 3682

kinematics in claim 18; (2) the elastic louver portion in claim 27; (3) the signal transmitters and receivers in claims 32 and 35; and (4) the permanent magnets and Hall sensors in claim 33 must be shown or the features canceled from the claims. *No new matter should be entered.*

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The disclosure is objected to because of the following informalities: each part of the invention, such as, the kinematics in claim 18, the two deflecting axes in the amended paragraph starting on page 6 at line 18 and ending on page 7 at line 15 of the specification, the fitting hole in line 7 on page 9 of the substitute specification, and the first and second directions in claims 36-38 should be designated by a referential numeral or character. Appropriate correction is required.

Art Unit: 3682

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter, such as, "a first direction" and "a second direction" in claim 36. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction is required.

8. Claims 18-30, 32, 33, 35, and 36 are allowed.

9. This application is in condition for allowance except for the following formal matters: objections to the drawings and specification above. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 703-308-3221. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

March 18, 2005



Vinh T. Luong
Primary Examiner